

INTERMOUNTAIN POWER AGENCY MODIFICATIONS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott D. Sandall

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions related to a project entity.

Highlighted Provisions:

This bill:

- ▶ establishes a governing board for a project entity (governing board);
- ▶ establishes the duties of a governing board;
- ▶ provides for the appointment of members to a governing board;
- ▶ outlines restrictions on compensation for members of a governing board; and
- ▶ repeals:
 - the Project Entity Oversight Committee; and
 - a project entity's ability to receive impact alleviation credits.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-13-305, as renumbered and amended by Laws of Utah 2002, Chapter 286

ENACTS:

11-13-301.5, Utah Code Annotated 1953



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Be it enacted by the Legislature of the state of Utah:

Section 1. Section **11-13-301.5** is enacted to read:

11-13-301.5. Governance.

(1) The governing board of a project entity shall be composed of the following seven members appointed for a four-year term:

(a) two members of the House of Representatives, appointed by the speaker of the House of Representatives;

(b) two members of the Senate, appointed by the president of the Senate;

(c) two members selected by collective vote of all of the legislative bodies of the municipalities that utilize electricity from an electrical generation plant owned by the project entity; and

(d) one member appointed by the governor that has expertise in the operation and management of electrical generation facilities.

(2) The duties of the governing board include:

(a) creating and implementing a long-term strategic plan for the project entity, taking into consideration:

(i) the state energy policy, as provided in Section [79-6-301](#);

(ii) the interests of the relevant municipalities; and

(iii) the profitability of the project entity;

(b) approving budgets, expenditures, bonds, and other financial matters of the project entity;

(c) establishing policies, rules, and regulations for the governance of the project entity;

(d) overseeing the management and operations of the project entity;

(e) entering into contracts on behalf of the project entity;

(f) acquiring, holding, and disposing of property on behalf of the project entity; and

(g) taking any other action necessary for the proper functioning and governance of the project entity.

(3) The governing board shall have all powers necessary to govern the affairs of the project entity and carry out the project entity's purposes and duties as outlined in Subsection

(2).

59 (4) A project entity is prohibited from establishing a governing board by contract or
60 interlocal agreement, and any governing board of a project entity existing before May 1, 2024,
61 is dissolved.

62 (5) The person with appointment authority for a member shall, at the time of
63 appointment or reappointment, adjust the length of terms to ensure that the terms of board
64 members are staggered so that approximately half of the board is appointed every two years.

65 (6) Each appointed member is eligible for reappointment for one additional term.

66 (7) When a vacancy occurs in the membership for any reason, the person with
67 appointment authority for the vacated board member position shall appoint a replacement
68 member for the remainder of the unexpired term.

69 (8) A member of the governing board may not receive compensation or benefits for the
70 member's service on the board, but may receive per diem and travel expenses in accordance
71 with:

72 (a) Section [63A-3-106](#);

73 (b) Section [63A-3-107](#); and

74 (c) rules made by the Division of Finance under Sections [63A-3-106](#) and [63A-3-107](#).

75 (9) The governing board of a project entity shall report annually before November 30
76 to the Public Utilities, Energy, and Technology Interim Committee.

77 Section 2. Section **11-13-305** is amended to read:

78 **11-13-305. Impact alleviation requirements -- Payments in lieu of ad valorem tax**

79 **-- Source of impact alleviation payment.**

80 (1) (a) (i) A project entity may assume financial responsibility for or provide for the
81 alleviation of the direct impacts of its project, and make loans to candidates to alleviate impacts
82 created by the construction or operation of any facility owned by others which is utilized to
83 furnish fuel, construction or operation materials for use in the project to the extent the impacts
84 were attributable to the project.

85 (ii) Provision for the alleviation may be made by contract as provided in Subsection (2)
86 or by the terms of a determination order as provided in Section [11-13-306](#).

87 (b) A Utah public agency that is not a project entity may take the actions set forth in
88 this Subsection (1) as though it were a project entity with respect to its ownership interest in
89 facilities providing additional project capacity.

90 (2) (a) A candidate may, except as otherwise provided in Section 11-13-306, require
91 the project entity or, in the case of facilities providing additional project capacity, any other
92 public agency that owns an interest in those facilities, to enter into a contract with the candidate
93 requiring the project entity or other public agency to assume financial responsibility for or
94 provide for the alleviation of any direct impacts experienced by the candidate as a result of the
95 project or facilities providing additional project capacity, as the case may be.

96 (b) Each contract with respect to a project or facilities providing additional project
97 capacity shall be for a term ending at or before the end of the fiscal year of the candidate who is
98 party to the contract immediately before the fiscal year in which the project becomes, or, in the
99 case of facilities providing additional project capacity, those facilities become subject to the fee
100 set forth in Section 11-13-302, unless terminated earlier as provided in Section 11-13-310, and
101 shall specify the direct impacts or methods to determine the direct impacts to be covered, the
102 amounts, or methods of computing the amounts, of the alleviation payments, or the means to
103 provide for impact alleviation, provisions assuring the timely completion of the project or
104 facilities providing additional project capacity and the furnishing of the services, and such other
105 pertinent matters as shall be agreed to by the project entity or other public agency and the
106 candidate.

107 (3) Beginning at the time specified in Subsection 11-13-302(1), the project entity or
108 other public agency shall make in lieu ad valorem tax payments to that candidate to the extent
109 required by, and in the manner provided in, Section 11-13-302.

110 (4) Payments under any impact alleviation contract or pursuant to a determination by
111 the board shall be made from the proceeds of bonds issued for the project or for the facilities
112 providing additional project capacity or from any other sources of funds available with respect
113 to the project or the facilities providing additional project capacity.

114 (5) (a) Each candidate may apply to any federal or state governmental authority for any
115 assistance that may be available from that authority to alleviate the impacts to the candidate.

116 (b) (i) To the extent that the impact was attributable to the project or to the facilities
117 providing additional project capacity, any assistance received from that authority shall be
118 credited to the alleviation obligation with respect to the project or the facilities providing
119 additional project capacity, in proportion to the percentage of impact attributable to the project
120 or facilities providing additional project capacity.

121 (ii) Notwithstanding Subsection (5)(b)(i), the candidate shall not in any event realize
122 less revenues than would have been realized without receipt of any assistance.

123 Section 3. **Effective date.**

124 This bill takes effect on May 1, 2024.